

CITY OF ROSENBERG

REGULAR COUNCIL MEETING MINUTES

On this the 4th day of February, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Linda Cernosek	City Secretary
Lora Lenzsch	City Attorney
Jeff Trinker	Executive Director of Support Services
John Maresh	Assistant City Manager for Public Services
Joyce Vasut	Executive Director for Administrative Services
Angela Fritz	Communications Director
Dallis Warren	Interim Police Chief
Rachelle Kanak	Interim Economic Development Director
Wade Goates	Fire Chief
Lisa Olmeda	Human Resources Director
Charles Kalkomey	City Engineer
Travis Tanner	Executive Director of Community Development
Darren McCarthy	Parks and Recreation Director
John Johnson	Police Officer
Tommy Havelka	Police Officer
Kaye Supak	Executive Assistant

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Frankie Rodriguez, Living Stones Church, Sugar Land gave the invocation and Scout Josh Hicks, Troop 1656, led the pledge of allegiance to the flag.

PRESENTATION OF ROSENBERG IMAGE COMMITTEE BEAUTIFICATION AND RENOVATION AWARDS.

Mayor Morales and Councilor Benton presented Image Committee Beautification and Renovation Awards to:

Present:

- | | |
|------------------------|---------------------|
| • Rodney Hardegree | 1201 Alamo Street |
| • John and Carol Moore | 5914 Homestead Road |

PRESENTATION OF CERTIFICATE OF APPRECIATION TO THE COASTAL PRAIRIE CHAPTER – TEXAS MASTER NATURALISTS FOR THEIR CONTRIBUTIONS TO THE SEABOURNE PARK ECOSYSTEM RESTORATION PROJECT.

Mayor Morales presented a Certificate of Appreciation to the Coastal Prairie Chapter – Texas Master Naturalists for their contributions to the Seabourne Park Ecosystem Restoration Project. Karl Baumgartner and several Texas Master Naturalists accepted the Certificate of Appreciation.

PRESENTATION OF THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC) PARKS AND NATURAL AREAS AWARDS 2013 – HONORABLE MENTION FOR SEABOURNE PARK ECOSYSTEM RESTORATION PROJECT.

Mayor Morales presented the Houston-Galveston Area Council (H-GAC) Parks and Natural Areas Awards 2013 – Honorable Mention for Seabourne Park Ecosystem Restoration Project to Darren McCarthy, Parks and Recreation Director. Notification of the recognition was received from H-GAC in a letter dated November 26, 2013. A copy of the letter was included in the agenda packet.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

The following speakers addressed Council under the Comments from the Audience.

Carol Moore, 5914 Homestead Road, Rosenberg, Texas:

- I am here tonight to give you an update on Suburban Estates. You all know the song and title "What a Difference a Day Makes", well tonight I can report to you "what a difference a stop sign makes". In just a little over a month since stop signs and reduced speed limits signs were put into place, there has been a significant change in our neighborhood. This has certainly slowed down the traffic. It is much safer for the students walking to school and for residents backing out of their driveways. Our neighborhood cannot be compared to any other subdivision street or whatever else critics want to compare us to in the City. Any criticism on our stop signs from non-residents of this neighborhood should be dropped by the wayside. The action of Council to proceed with stop signs was a great compromise of all residents of this neighborhood. Everyone who wanted Homestead Road reopened got their wish; therefore, this should be the end of this on-going saga. The end result is we have a safer neighborhood and we are getting back the neighborhood we once had. Former Councilwoman, Fran Naylor had a very good response letter in the January 30, 2014 edition of the Fort Bend Herald. She has given me permission to quote her last two paragraphs of her letter which deserves to be acknowledged. It reads as follows: "As Rosenberg continues to grow, the City may need to look at these types of requests and take action to encourage drivers to either slow down or go to streets meant to be used as thoroughfares. New subdivisions are planned in ways that ensure that safe travel in residential areas. The older parts of town may need a little relief." I commend all of you on Council who responded to our need for help. To all of City government from City Manager, Mayor, Interim Police Chief, and all Council Members thank you for your commitment to the City. I would also like to say thanks to Assistant City Manager, John Maresh; City Secretary, Linda Cernosek; and Citizen Relations Coordinator, Karen Zwahr. Over the last two years, all of you have been so helpful, polite and professional.

Mike Parsons, 2635 Sequoia Lane, Rosenberg, Texas:

- It is somewhat awkward as well as painful to publically criticize an individual and friend, whom I encouraged to run in the first place as well as reelection. However; in my tenure of Council "close observation" since 2000 I feel it important to do so with clear equality.
- In the January 21, 2014 Council Meeting, I found myself speaking on the Planning Commission Resolution regarding the Voluntary Groups Meeting ban on Wednesday's based on religious prejudice and majority rule.
- I, the balance of City Council, the staff and the audience were misled when we were told that two of the Planning Commissioner's had redacted their vote and that, in effect, the vote of that voluntary group was not 5 against and 1 for the ban. In effect changed the vote to 3 for and 3 against.
- A couple of issues struck me as odd. The first was the fact that said Councilperson didn't contact all of the members of the Planning Commission. The second was the two Commissioners he mentioned had not told the balance of the Commission they had changed their minds.
- I was somewhat enraged, not because the Commissioners changed their minds, but because they didn't have the common decency to advise their fellow citizens, with whom they work for the long term benefit of

Rosenberg of that decision. Thus, I emailed them when I got home after the meeting. Within 24 hours I received an email from both assuring me that they never recanted their vote or opinion on the resolution via email. They went on to state at the Planning Commission Meeting of January 22, 2014, in the announcement section that not only did they not recant they would vote for the resolution again.

- Do I think, and I will be kind, that the "misrepresentation of fact" would have changed the Council's mind? Absolutely not. My opinion is that the original decision was in favor and benefit of two of the "current Council's Coalition", without regard for the majority of members of the Park Committee or other Committees, Commissions or Task Forces, and therefor would be ignored and upheld. However; you define "misrepresentation of fact", which the Planning Commission has seen twice this year by members of Council, it is a matter of trust.
- I would suggest that the Councilman who clearly "misrepresented fact" apologize to his fellow Council Members, the Planning Commission, the staff and those citizens of Rosenberg, whom were in the audience on January 21, 2014. I apologized to my fellow Planning Commissioners, to whom I sent my outraged email, on the first opportunity to see them, which was the Planning Commission Meeting on January 22. I am fully aware that this type of conversation may well limit my tenure on the Planning Commission. But, if it results in honesty within the Council Chamber it will be a fitting end to an individual who will have served for eleven years attempting to envision what Rosenberg needs to do to be viable and an attracting area for businesses and people 25 years in the future. It is an on-going project I assure you, while we watch Fort Bend County grow exponentially toward our City. Thank you.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON REGULAR MEETING MINUTES FOR JANUARY 07, 2014.

B. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1749, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, A CONSENT TO ASSIGNMENT AGREEMENT RELATING TO THE TEMPORARY ASSIGNMENT OF WATER UNDER THE BRAZOS RIVER AUTHORITY SYSTEM WATER AVAILABILITY AGREEMENT, BY AND AMONG THE CITY, BRAZOS RIVER AUTHORITY, AND GULF COAST WATER AUTHORITY.

Executive Summary: On June 07, 2011, City Council approved Resolution No. R-1326, authorizing the City Manager to execute an Agreement to assign a portion of the City's 2011, 2012, 2013, and 2014 allocations of Brazos River Authority (BRA) surface water supply to the Gulf Coast Water Authority (GCWA) at the same rate paid to the BRA. The assignment is subject to BRA consent on an annual basis. The Temporary Consent to Assignment Agreement has been approved for each of the prior years of 2011 - 2013.

The City's annual allocation of BRA surface water is four thousand five hundred (4,500) acre feet. The Agreement under consideration provides the BRA consent to assign four thousand three hundred eighty (4,380) acre feet for the time period from January 01, 2014, to December 31, 2014.

The GCWA is required to reimburse the City for the assigned water at the same rate charged by the BRA. For FY2014, the BRA rate is \$65.65/acre foot for a total of \$295,425.00. By assigning the surface water allocation to GCWA, the City will be able to recoup approximately \$287,547.00. These dollars will be used to help fund the alternative water supply projects currently under consideration to comply with the Fort Bend Subsidence District mandate to reduce groundwater withdrawals by thirty percent (30%) in 2016.

Staff recommends approval of Resolution No. R-1749, with the Agreement attached as Exhibit "A", as presented.

C. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-05, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ALL OF SECTION 28-41 (B) AND

(D), STOP SIGNS DESIGNATED, OF ARTICLE II, DIVISION 2 OF CHAPTER 28, STOP STREETS, AND SUBSTITUTING THEREFOR A NEW SECTION 28-41 (B) AND (D) OF ARTICLE II, DIVISION 2 OF CHAPTER 28 THEREOF; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 OR MORE THAN \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND, PROVIDING FOR SEVERABILITY.

Executive Summary: During the January 21, 2014 meeting, City Council discussed the proposed installation of four-way stop signs at the intersection of Avenue L and Millie Street. City Council did take action directing the installation of four-way stop signs at this intersection.

Staff has prepared an Ordinance that deletes the above listed intersection from the two-way stop sign designations and adds said intersection to the four-way stop sign designations.

Staff recommends approval of Ordinance No. 2014-05 as presented.

D. CONSIDERATION OF AND ACTION ON A FINAL PLAT OF BONBROOK PLANTATION NORTH SECTION NINE, A SUBDIVISION OF 15.118 ACRES OF LAND SITUATED IN THE WILEY MARTIN LEAGUE, ABSTRACT 56, CITY OF ROSENBERG (PARTIAL), FORT BEND COUNTY, TEXAS; 66 LOTS, 0 RESERVES, 4 BLOCKS.

Executive Summary: The Final Plat of Bonbrook Plantation North Section Nine is a proposed subdivision consisting of 15.1 acres and sixty-six (66) single-family residential lots. The location of the Plat is off of Conchola Lane, in the northwest corner of Bonbrook Plantation. The proposed Plat is located largely within the Extraterritorial Jurisdiction (ETJ) and is fully within Fort Bend County Municipal Utility District No. 155 (MUD No. 155). Part of Block 2 (see Lots 4-10) is located within the City Limits.

The Plat is not in conflict with the approved Land Plan for Bonbrook Plantation (see attached), which indicates a typical lot size of fifty-five feet (55') for this area of the development. The majority of the proposed lots are fifty-five-foot (55') lots. Eighteen (18) of the lots are sixty feet (60') or greater in width as noted in the Lot Area Summary. Six (6) of the lots are cul-de-sac or "knuckle" lots that are approximately fifty-five feet (55') as measured at the front building line, but only forty feet (40') at the right-of-way, indicating they are fifty-feet or greater (50'+) lots.

All subdivisions platted so far in Bonbrook Plantation have been in compliance with the approved Land Plan. According to the Land Plan, at build-out, the development will contain 216 (18%) fifty-foot lots, 489 (40%) fifty-five-foot lots, and 515 (42%) sixty-five-foot lots, and a total of 1,220 lots. It appears that 835 lots—or 68 percent of the total 1,220 lots—have been platted at this time.

The proposed Final Plat is consistent with the Preliminary Plat, which was approved by the Planning Commission on October 23, 2013. It is not in conflict with the Development Agreement for MUD No. 155 or with the "Subdivision" Ordinance. The Planning Commission recommended approval to City Council of the Final Plat on November 20, 2013. Staff recommends approval of the Final Plat of Bonbrook Plantation North Section Nine.

E. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-07, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING SECTION 16-171 OF ARTICLE IV OF CHAPTER 16 THEREOF AND SUBSTITUTING THEREFOR A NEW SECTION 16-171, PROVIDING FOR DEFINITIONS; BY ADDING NEW SECTIONS 16-184 AND 16-186, ESTABLISHING GUIDELINES FOR AGGRESSIVE SOLICITATION AND PROVIDING A PENALTY; AND BY RENUMBERING SECTIONS 16-185 AND 16-187.

Executive Summary: During the January 28, 2014 meeting, City Council discussed proposed changes to Code of Ordinances Chapter 16, Art. IV—Itinerant Vendors, Solicitors and Peddlers.

At that meeting, City Council indicated that they had no changes to the proposed Ordinance revisions. Staff has prepared an Ordinance that adds a definition of aggressive solicitation and creates a violation that carries a penalty of a fine up to \$500.

Staff recommends approval of Ordinance No. 2014-07 as presented.

Councilor Grigar requested to move Item C to the Regular Agenda. Mayor Morales moved the item to the Regular Agenda as Item 2A.

Councilor Benton requested to move Item E to the Regular Agenda. Mayor Morales moved the item to the Regular Agenda as Item 2B.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Items A, B, and D on the Consent Agenda. The motion carried by a unanimous vote.

REGULAR AGENDA

2A. *This item was formerly Item C.*

CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-05, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ALL OF SECTION 28-41 (B) AND (D), STOP SIGNS DESIGNATED, OF ARTICLE II, DIVISION 2 OF CHAPTER 28, STOP STREETS, AND SUBSTITUTING THEREFOR A NEW SECTION 28-41 (B) AND (D) OF ARTICLE II, DIVISION 2 OF CHAPTER 28 THEREOF; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 OR MORE THAN \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND, PROVIDING FOR SEVERABILITY.

Executive Summary: During the January 21, 2014 meeting, City Council discussed the proposed installation of four-way stop signs at the intersection of Avenue L and Millie Street. City Council did take action directing the installation of four-way stop signs at this intersection.

Staff has prepared an Ordinance that deletes the above listed intersection from the two-way stop sign designations and adds said intersection to the four-way stop sign designations.

Staff recommends approval of Ordinance No. 2014-05 as presented.

Key discussion points:

- Councilor Grigar asked this item to be pulled into the Regular Agenda because of the outcome of the vote at the last meeting and did not want to say no to all the Consent Agenda items, so he wanted to vote on this item individually.
- Councilor Benton stated we heard some comments from Carol Moore that were precise. Before he was on City Council, he contacted Councilor Grigar about these intersections which were four (4) way intersections without any stop signs at all. Councilor Benton addressed Council in 2001-2003 and the Council at that time took action to install stop signs, but they that live in this neighborhood would say they put them in the wrong direction, because they put them east/west, instead of north/south, which protected those going north/south and now use this street as a drag strip. It was not as easy as some made it sound to get Council approval or to get any action on this stop sign. It was in fact a process that took at least two and a half years. There are dozens and dozens of more intersections, I feel, that need to be addressed. I would like to note that studies are not required, they are not required by law to have a study as far as my knowledge, unless it is at an intersection that connects with a state street, is that a correct statement?
- John Maresh stated as he read the State Traffic Manual, it addresses stop signs at any intersection.
- Councilor Benton stated he spoke to Texas Municipal League to their legal counsel, and he was told that it is not required.
- John Maresh stated he cannot speak as to what TML advised him, but the information in the traffic manual generally states that a study should be done to document the need or warrant of that stop sign.
- Councilor Benton stated that if we do not do a study, we are breaking the law?
- Lora Lenzsch, City Attorney, stated that Section 2b.07 of the Texas Manual of the Uniform Traffic Control Device, does state that for a traffic control device, such as a stop sign, a study needs to be done. Are you breaking the law? I think last time I explained the situation. When you charge someone with a violation, one of the elements is that the sign is lawfully placed. Arguably, does the City have the authority on their own, without anything to substantiate the sign to place it there—that would be an argument for the Judge to decide, if that would come up. I am asked to go into the courts to prosecute and one of the elements in running a stop sign if someone had a trial, it would be I would have to prove that the sign is lawfully placed there. Usually, if the issue comes up to ask for a study, rarely but it has come up. If there isn't a study the judge is going to dismiss the case.
- Councilor Benton asked if there is passing or failing with a study or is it just for your

information?

- Lora Lenzsch advised that the manual provides what the study needs to show. It gives you the standards. You don't need to guess on it. There is a percentage you have to hit, how many cars, at how many speeds, and how many times at that intersection.
- Councilor Benton asked if a study has been done at this intersection. John Maresh stated it probably has, but it has been some time.
- Councilor Benton stated he asked for it, after he had an accident. Charles Kalkomey stated the last study at this intersection was done in 2011. We haven't been asked to do a study since then.
- Councilor Benton stated we did a study in 2011 and there was no passing or failing, so it is up to the discretion of the Council whether or not we wish to install a stop sign there.
- Lora Lenzsch answered she did not know what the study showed. Sometimes the study makes a conclusion at the end.
- Charles Kalkomey stated the way the manual is written the study defines certain warrant conditions that will warrant the placement of the stop sign, just like there are warrant conditions that will warrant the placement of a traffic light, and those are the conditions we test against to see if a stop sign is warranted.
- Councilor Benton asked if a fatality or several accidents warrant a particular device. Charles Kalkomey answered there is one of the warrants that has to do with the number of accidents in the previous three (3) year period, I believe.
- Councilor Benton stated this is what he is trying to avoid. Charles Kalkomey stated that is not the way the warrant is written--that is the way TXDOT wrote the manual.
- Councilor Benton stated if there is no prohibition in having the stop sign, we heard statement from someone tonight what a world of difference a day makes or a stop sign makes.
- Lora Lenzsch stated, "I advised you what the issue is, I am not saying do it or don't do it, I am saying these are the issues that surround the placement of a stop sign. There is a standardized manual that has been provided throughout the State of Texas for placement of stop signs. It does specifically say an engineer study for traffic control devices, but again, if a stop sign is there-it is there."
- Councilor Benton stated we don't want to do anything to break the law.
- Lora Lenzsch stated she thinks the problem will start arising if you start putting several of these stop signs out without a study, then the City will be in a situation where eventually people are going to start understanding that some of these signs are not warranted.
- Councilor Benton stated we had this discussion before about Homestead Road, about stop signs, and you said you can't answer for other cities, but think of the logic, you get little towns like Orchard and Needville.
- Councilor Benton asked Charles Kalkomey what the cost is for a low budget study of these stop signs. Charles Kalkomey stated \$500-\$600.
- Lora Lenzsch stated these cities do studies, they just don't hire an engineer and they use the manual or use their Public Works Director who has been there for years and has done these studies. The manual dictates how to do the studies and maybe some of the cities are not doing studies--the stop signs are just there. I am educating in the fact that many people do not understand -- is a stop sign legally posted there. People can go that extra step and they do.
- Councilor Benton is trying to get a legal opinion because he is getting mixed messages.
- Lora Lenzsch stated she is not saying do not put a stop sign out, I am saying as your prosecutor, when I go into the court, there will be stop signs not supported by a traffic study and if that is the case, the police are not authorized to issue citations. Does the general public know that?
- Councilor Benton stated he is not here to get something over on the general public, I am trying to save someone from getting killed.
- Councilor Benton stated when the time comes, he would move that we approve these stop signs.
- Councilor McConathy asked Charles Kalkomey if the signs on page 2-8, attached to the Ordinance, the signs both two way and four way stop signs, you are saying that all of these signs before they were placed had a traffic study to justify their position in installation?
- Charles Kalkomey stated back many years ago, the City undertook a project to identify intersections with stop signs, because we came to the realization that not every stop sign on the street was contained in the ordinance. At that time, we prepared a map of all the stop signs in the city and all the intersections. Council made a policy decision that said every

intersection shall have at least one traffic control device. In other words, if it's a T-intersection the street coming into the T would have a stop sign. If it was a four (4) way intersection, at least one of the cross streets would have a stop sign. We gave preference to north-south movement of traffic if there was a decision to be made which way it was to go. We prepared a map and Council adopted those stop sign placements in one big ordinance. Ever since that time, stop sign placements have been done with traffic studies as far as I am aware.

- Councilor McConathy stated that if any one of these stop signs were to contest the ticket, they could get out of it, because it was not done by a traffic study.
- Lora Lenzsch stated that is up to the judge to make that determination, but it has happened—not often and it surprises you, because they will ask for the traffic study for that particular intersection. Sometimes, the city will have the study and sometimes they will have a study. Councilor Benton is correct, not every sign, not only in Rosenberg, but throughout the State of Texas every sign is supposed to be supported by a traffic study.
- Mayor Morales asked in new developments, don't new developments have to do certain traffic studies to qualify for certain traffic control devices?
- Charles Kalkomey stated in the newer developments following the policy of council where there needs to be a stop sign at an intersection, we make sure those stop signs are placed and the ordinances are changed at the appropriate time. The major intersections of developments where they enter out onto Reading Road for example, those are obviously stop signs. I think some of the TIA's done for those developments have indicated that, but I am sure there may be some that did not, but one of the warrants for a traffic sign would be an entrance into a major highway or roadway, you always want to have a stop sign so that one is not necessarily needing a study to place because it's one of those warrant conditions that are on the books. It's the ones you don't know if it's warranted or not is where the study comes in handy.
- Councilor Bolf stated besides Ms. Moore, she has heard from others who have said that putting in stop signs has helped a great deal, it has helped on the cut through traffic and I know that sometimes studies can be a big benefit, but sometimes depending on the area of the neighborhood, we can rely on the common sense of the people who have lived there twenty (20) years and have seen the traffic and I agree with what we did last week and what we are doing today.
- Councilor Grigar didn't mean for it to get into this depth of a conversation again. We have already done this and all I wanted to do is take it out of the Consent Agenda because of the outcome of the last vote. I didn't want to vote "no" on all the Consent Agenda items. We already know how everyone up here feels and all I want to do is pull it into the Regular Agenda and have a vote of "no" for myself.
- Councilor Pena stated we already made our decision on this, and I am going to stand by it.
- Councilor Euton stated she didn't say it before, but she will say it this time, I did vote against it before. I talked to some residents who were not on the petition, and they said it is an "iffy" thing, but it's probably a good idea and since the intersection before has a four (4)-way stop, I felt that a traffic study would help determine whether an additional four (4) way stop just one block down would be of any benefit and that is why I had voted no the first time.
- Mayor Morales stated he voted no. Without the traffic study again as he said that evening, we take these seriously, but we have to have some type of criteria to base it on. Just like Homestead Road, the traffic studies that were done, made my decision because of the fact we saw that 47% of the traffic coming through Homestead Road were not residents in that area. There was some criteria to be able to base that decision. As far as this particular item at Millie Street, again, that area had the traffic study in 2011, but should have been updated and based on that, there would be some criteria to decide whether it would be warranted or not after hearing what the residents had to say. Again, as our legal counsel said, we can make that decision up here, but it could be challenged by a lawyer. I think going forward, that we should have some type of mechanism in place that warrants whatever type of traffic calming device that we provide. Again, we should listen to our citizens if there is a request, but I think there is some criteria to be done. As I stated that night, on my own street, Bryan Road, the residents did a petition and did not ask me to lower the speed limit. I told them the City has a policy that we do a traffic study and what the traffic study shows, we do. That traffic study showed that a portion of Bryan Road needed to be reduced. The other portion from Spacek Road to FM 2977 (Minnonite Road) needed to stay at the 45 mph. I would not have known to make that decision. If they would have said to lower to 40 mph, not being a traffic engineer, we probably would have lowered the entire street to 40 mph, so I think we need to have some type of criteria to make our decisions on. This particular item did not agree without the traffic study at that time, but this item is to put it into a four (4)-way stop sign.

- Lora Lenzsch clarified that this vote is to pass the Ordinance placing the stop signs in at Millie Street and Avenue L.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Ordinance No. 2014-05, An Ordinance amending the Code of Ordinances by deleting all of Section 28-41 (b) and (d), Stop Signs Designated, of Article II, Division 2 of Chapter 28, Stop Streets, and substituting therefor a new Section 28-41 (b) and (d) of Article II, Division 2 of Chapter 28 thereof; providing a penalty in an amount of not less than \$1.00 or more than \$200.00 for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and, providing for severability. Upon voting, the motion passed by a vote of 4-3 as follows: **Ayes: Councilors Benton, McConathy, Pena, and Bolf. Noes: Mayor Morales, Councilors Euton and Grigar.**

2B. ***This item was formerly Item E.***

CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-07, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING SECTION 16-171 OF ARTICLE IV OF CHAPTER 16 THEREOF AND SUBSTITUTING THEREFOR A NEW SECTION 16-171, PROVIDING FOR DEFINITIONS; BY ADDING NEW SECTIONS 16-184 AND 16-186, ESTABLISHING GUIDELINES FOR AGGRESSIVE SOLICITATION AND PROVIDING A PENALTY; AND BY RENUMBERING SECTIONS 16-185 AND 16-187.

Executive Summary: During the January 28, 2014 meeting, City Council discussed proposed changes to Code of Ordinances Chapter 16, Art. IV –Itinerant Vendors, Solicitors and Peddlers.

At that meeting, City Council indicated that they had no changes to the proposed Ordinance revisions. Staff has prepared an Ordinance that adds a definition of aggressive solicitation and creates a violation that carries a penalty of a fine up to \$500.

Staff recommends approval of Ordinance No. 2014-07 as presented.

Key discussion points:

- Councilor Benton thanked staff for the work done on this item pertaining to panhandling. He asked Dallis Warren, Interim Police Chief for a brief explanation of the item. This was brought to the attention of Council Members by citizens.
- Dallis Warren explained this ordinance changes the definition of solicitation to include panhandling which is asking for money or anything of value without selling it. It does not outlaw asking for money it outlaws certain behaviors which would be aggressive panhandling such as continuing to question and ask people after they refuse and following them or doing anything that makes them uncomfortable. It also outlaws doing it in particular areas, such as banks, bus stations, roadways, school areas. It would limit the types of behavior people could engage in when soliciting and limits the areas in which solicitation and panhandling could occur.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Ordinance No. 2014-07, an Ordinance amending the Code of Ordinances by deleting Section 16-171 of Article IV of Chapter 16 thereof and substituting therefor a new Section 16-171, providing for definitions; by adding new Sections 16-184 and 16-186, establishing guidelines for aggressive solicitation and providing a penalty; and by renumbering Sections 16-185 and 16-187.

Questions/Comments:

- Councilor Grigar stated he was not at the previous meeting and asked how this is going to be enforced? Policemen will not be there all the time. A panhandler will not ask for our ordinance. How do you give someone a ticket at an entrance or exit of a bank and you know they are soliciting?
- Dallis Warren stated in most violations of this type with people going door-to-door soliciting or panhandling we rely on the public to let us know about that. When we go out and identify what they are doing, the complainant will tell us if they are harassing them or blocking the roadway, sidewalks and doing it in an area that is prohibited. They could get a citation. All of our officers will be aware of this and if they see someone at an intersection on a public right-of-way it is outlawed entirely in those places. It does not matter if it is aggressive or not it is still a violation of panhandling and soliciting in those areas and we can take action without a complaint.

Upon voting the motion carried by a unanimous vote.

2. **HEAR AND DISCUSS A PRESENTATION REGARDING A PROPOSED EAGLE SCOUT PROJECT TO REFURBISH A FISHING PIER IN SEABOURNE CREEK NATURE PARK, AND TAKE ACTION AS NECESSARY.**

Executive Summary: On January 23, 2014, Josh Hicks of Troop 1656 presented a proposed Eagle Scout Project (Project) to be placed in Seabourne Creek Nature Park to the Parks and Recreation Board (Board). After reviewing his presentation regarding the proposal to refurbish a fishing pier in Seabourne Creek Nature Park, the Board unanimously recommended the Project plan for approval as presented.

Staff recommends approval of the proposed Eagle Scout Project at Seabourne Creek Nature Park based upon Josh Hick's presentation and the recommendation of the Parks and Recreation Board.

Key discussion points:

- Darren McCarthy, Parks and Recreation Director gave an overview of the item.
- Josh Hicks of Troop 1656 presented the proposed Eagle Scout Project.
- Council thanked John Hicks for his work on the Project.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve a proposed Eagle Scout Project to refurbish a fishing pier in Seabourne Creek Nature Park. The motion carried by a unanimous vote.

3. **REVIEW AND DISCUSS AN INDEPENDENT ANALYSIS REPORT OF CONTACT DATA COLLECTED BY THE POLICE DEPARTMENT FOR CALENDAR YEAR 2013, AND TAKE ACTION AS NECESSARY.**

Executive Summary: In accordance with Senate Bill 1074, more commonly known as the "Texas Racial Profiling Data Collection Law", all state law enforcement agencies are required to submit a report to their governing body – whether a county or municipality. The report must contain totals on racial profiling data, as well as analysis of the prevalence of racial profiling. The report has been provided to City Council under separate cover and will be available for public review in the City Secretary's office.

Dr. Alex del Carmen will be present at the meeting to discuss his independent assessment of the data collected.

- Dallis Warren, Interim Police Chief introduced Dr. Alex del Carmen of Del Carmen Consulting, LLC.
- Dr. Alex del Carmen gave a presentation regarding the Independent Analysis Report of Contact Data Collected by the Police Department for Calendar year 2013.
- An overview of the Annual Contact Report for 2013 was provided.
- Recommendations
 - Collect and analyze data on searches
 - Provide advanced training on racial profiling to all officers
- Mayor Morales thanked Dr. del Carmen for the report.
- No action was taken on the item.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1751, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, BUDGET AMENDMENT 14-06 IN THE AMOUNT OF \$65,063.00, FOR THE ADDITION OF A PUBLIC WORKS DIRECTOR POSITION.**

Executive Summary: Budget Amendment 14-06, in the amount of \$65,063.00, is presented to allocate funding for the addition of a Public Works Director position.

On Wednesday, January 29, 2014, staff met with the Finance/Audit Committee to discuss the need for additional staff to manage the many functions and projects of the Public Works and Utilities Departments. The current Public Works Director, who is managing streets, drainage, water and wastewater operations, will be reclassified as Utility Director and manage only the water and wastewater operations. City staff is recommending the creation of a position for a Public Works Director, and requests approval of the Budget Amendment to fill the new position for the remainder of FY2014. Since the current position's salary was split between General Fund - Public Works and the Water/Wastewater Fund, the Budget Amendment will also have to be split between these two funds. The Finance/Audit Committee recommended approval of the new position.

Budget Amendment 14-06 is included as Exhibit "A" to Resolution No. R-1751 to fund the Public Works Director position for the remainder of FY2014. Staff recommends approval of Resolution No. R-1735 as presented.

- Joyce Vasut, Finance Director read the Executive Summary regarding Resolution No. R-1751.

Action: Councilor McConathy made a motion, seconded by Councilor Euton to approve Resolution No. R-1751, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 14-06 in the amount of \$65,063.00, for the addition of a Public Works Director position. The motion carried by a unanimous vote.

5. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-06, AN ORDINANCE FINDING AND DETERMINING THAT PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF A 0.4821 ACRE TRACT BEING A PORTION OF CARLISLE STREET AS DEDICATED BY THE KAFFENBERGER ADDITION AS RECORDED IN VOLUME 6, PAGE 16 OF THE MAP RECORDS OF FORT BEND COUNTY, TEXAS, SITUATED IN THE HENRY SCOTT SURVEY, ABSTRACT NO. 83, FORT BEND COUNTY, TEXAS; AND, A PARCEL CONTAINING 0.1469 ACRE, BEING ALL OF A CALLED SIXTEEN (16) FOOT WIDE ALLEY AS DEDICATED BY THE KAFFENBERGER ADDITION AS RECORDED IN VOLUME 6, PAGE 16 OF THE MAP RECORDS OF FORT BEND COUNTY, TEXAS, SITUATED IN THE HENRY SCOTT SURVEY, ABSTRACT NO. 83, FORT BEND COUNTY, TEXAS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.**

Executive Summary: On July 10, 2013, Our Lady of Guadalupe Catholic Church (Church) approached the City and had a pre-construction meeting regarding the redevelopment of their property to include a new sanctuary. The Church owns the majority of the property bounded by Mulcahy Street, FM 723, and Avenues D and E. A vicinity map depicting property ownership is attached. In addition to the new development, part of their reason for meeting with the City was to request the City's release of Carlisle Street between Avenues D and E, and the alley between Carlisle and Mulcahy Streets, to facilitate their development. The reasons stated were for security purposes, including potentially "gating" the street and alley, and to avoid issues with setbacks from property lines. A vicinity map and metes and bounds and survey exhibits of the right-of-way tracts are attached.

The City stated that a request to abandon the right-of-way would be required in writing (see attached) and that the City would have to investigate utilities, property ownership, and other issues to formally respond.

Staff investigated and found (1) that there was a tract abutting Carlisle Street that is not owned by the Church and (2) the following utilities in the proposed rights-of-way:

- Carlisle Street: City water line; CenterPoint overhead utilities and streetlights
- Alley: City sanitary sewer; CenterPoint gas and overhead electric, and potential Comcast and AT&T utilities

As a result of these findings, it was staff's suggestion to the Church that (1) the portion of right-of-way abutting a separate property owner not be abandoned, (2) that any rights-of-way released by the City be kept at a minimum as utility easements, and (3) that emergency access be kept on Carlisle between Avenues D and E. Staff has also communicated to the Church that by Ordinance the City cannot incur any costs associated with the right-of-way abandonment and that the property must be appraised. As with other similar cases, the Church would be responsible for the cost of the appraisal and for payment to the City in an amount equal to the appraised value. Finally, staff has communicated to the Church that they must coordinate with CenterPoint, Comcast and AT&T regarding Letters of No Objection to the right-of-way abandonment. Staff was of the opinion that keeping the rights-of-way as utility easements would prevent issues with these utilities. At this time, the Church has secured Letters of No Objection from all of the above utilities. The letters are attached as documentation.

With all of the above requirements having been met, staff does not object to the City abandoning the proposed rights-of-way because the subject portions of right-of-way would serve only the Church, and emergency access and access to utilities by the City would be kept. Per Section 24-1 of the Code of Ordinances (attached), abandonment of City rights-of-way requires City Council action following a review and recommendation by the Planning Commission. The Planning Commission unanimously recommended approval of this item on October 23, 2013. Staff recommends approval of Ordinance No. 2014-06.

Key discussion points:

- Travis Tanner, Planning Director explained the Executive Summary.

Questions/Comments:

- Councilor Grigar stated it is good for redevelopment on that side of town. On Carlisle Street where the one parcel is not owned by the Church, what is the reason to keep that portion of Carlisle Street instead of using Avenue E as an access?
- Travis Tanner stated we were erring on the side of caution because it does have frontage on Carlisle Street. The way the Ordinance is stated now it does not allow us to abandon right-of-way that they have access to currently.
- Councilor Pena asked if an easement will be obtained by the utilities. How will the street be identified on Carlisle? Will it be blocked off or is the Church planning to block that off?
- Travis Tanner stated yes. Easement will be shown on the plat and easements are part of the Ordinance before you tonight that the City will retain access for those utilities. The area was pointed out and will still be Carlisle and public right-of-way. The area of private property was pointed out on the map. The City will be releasing the right-of-way to the property owner.
- Councilor Euton stated it looks good and it will be great thing for the Church to be able to use all that property. She looks forward to that development.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Ordinance No. 2014-06, an Ordinance finding and determining that public convenience and necessity no longer require the continued existence of a 0.4821 acre tract being a portion of Carlisle Street as dedicated by the Kaffenberger Addition as recorded in Volume 6, Page 16 of the Map Records of Fort Bend County, Texas, situated in the Henry Scott Survey, Abstract No. 83, Fort Bend County, Texas; and, a parcel containing 0.1469 acre, being all of a called sixteen (16) foot wide alley as dedicated by the Kaffenberger Addition as recorded in Volume 6, page 16 of the Map Records of Fort Bend County, Texas, situated in the Henry Scott Survey, Abstract No. 83, Fort Bend County, Texas; and containing other provisions relating to the subject. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1731, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN ENGINEERING SERVICES AGREEMENT FOR CONSTRUCTION PROJECT REPRESENTATION/INSPECTION SERVICES, BY AND BETWEEN THE CITY AND JONES AND CARTER, INC., IN AN AMOUNT UP TO \$100,000.00.**

Executive Summary: This item has been placed on the Agenda to offer City Council the opportunity to consider the Proposal for Engineering Services for Providing Construction Project Representation Services (Proposal) for 2014. The Proposal was initially presented to the Professional Services/Engineering Project Review Committee (Committee) on November 21, 2013. The Committee took action recommending the Proposal be placed on the next City Council Workshop Agenda to allow for further discussion. Subsequently, the Proposal was discussed at the City Council Workshop on January 28, 2014. The consensus of City Council members present was to place the Proposal onto an upcoming Agenda for additional discussion due to the unforeseen absence of two members.

City Council has annually approved the Proposal from Jones & Carter, Inc., since its inception in 2009 as a means to provide consistent construction project oversight and to control the overall construction management costs for Capital Projects. The contracted inspection services have worked out well for the City during the past five (5) years and the inspectors have been able to monitor and observe numerous construction projects simultaneously. The inspectors are able to communicate with the City's Project Director on a daily basis. Jones & Carter, Inc., has a full-service construction phase department with adequate resources to manage multiple project inspections. They also have a sufficient number of inspectors that are familiar with the City of Rosenberg construction standards and are able to provide coverage when inspectors are unavailable due to vacations, illness or training. The current program also provides the greatest amount of flexibility to the City when the number of Capital Projects increases or decreases, as the City only pays for the actual hours of inspection time required.

Prior to the City's engagement of contracted inspection services with Jones & Carter, Inc., the engineering firm responsible for a specific project design and construction also provided the inspection services which were limited to only that project. With multiple projects underway simultaneously, the City was paying for multiple inspectors and this was not cost effective. In some cases, the City hired an engineering firm to design a project, but the firm did not offer construction phase/inspection services so

the City had to hire another firm to provide the required services. In other instances, third party inspectors were not familiar with the City of Rosenberg construction standards resulting in construction delays, incorrect interpretations of the standards, or the already limited City staff members having to expend time and effort to review construction phase work.

The inspection service fees for calendar year 2013 (January 01, 2013 - September 30, 2013) are approximately \$35,064.05 according to the spreadsheet included with this item. A dollar amount equal to 2.5% of each Capital Project construction contract is appropriated for the inspection services. Projects scheduled for FY 2014 include: Community Development Block Grant (CDBG) Phase IX North Side Sanitary Sewer Replacement, Bamore Road Phase III, Airport Avenue Phase 1 Expansion, Dry Creek Phase 1 Improvements, CenterPoint Lateral Drainage Phase III Improvements and Bamore Road Phase IV.

No changes have been made to the proposed Agreement for calendar year 2014. The Proposal for said services is attached as Exhibit "A" to Resolution No. R-1731.

Staff recommends approval of Resolution No. R-1731, authorizing the City Manager to execute a Professional Services Agreement with Jones and Carter, Inc., for 2014 construction project representation/inspection services.

Key discussion points:

- John Maresh, Assistant City Manager read the Executive Summary regarding the item.

Action: Councilor Bolf made a motion, seconded by Councilor Grigar to approve Resolution No. R-1731, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Engineering Services Agreement for construction project representation/inspection services, by and between the City and Jones and Carter, Inc., in an amount up to \$100,000.00. The motion carried by a unanimous vote.

7. **CONSIDER MOTION TO ADJOURN FOR EXECUTIVE SESSION.**

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to adjourn for Executive Session.

8. **HOLD EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE ON LEGAL MATTERS PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE.**

An Executive Session was held to receive legal advice on legal matters pursuant to section 551.071 of the Texas Government Code.

9. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor Morales adjourned the Executive Session and reconvened into Regular Session at 8:57 p.m.

10. **REVIEW AND DISCUSS SUMMER PARK PROPERTY OWNERS' ASSOCIATION ASSESSMENT FEES, AND TAKE ACTION AS NECESSARY.**

Executive Summary: This Agenda item has been included to allow City Council to take action following Executive Session if deemed necessary.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to place a budget item on the next Council Agenda (February 18, 2014) regarding Summer Park Property Owners' Association Assessment Fees. The motion carried by a unanimous vote.

11. **ANNOUNCEMENTS.**

- American Legion Post 567 Wild Game Supper Saturday at the Lodge behind the power plant on Lockwood Road
- Rosenberg Lions Club Fund Raiser on February 14, 2014
- Boots and Badges Saturday Night at the George Ranch
- Fort Bend Boys Choir Annual Benefit Saturday

12. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 9:01 p.m.


Linda Cernosek, TRMC, City Secretary